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Written statement* submitted by the Himalayan Research and Cultural Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Non State actors in South Asia

As the scope and intensity of the activities of non state actors (NSA) is expanding, the international community is gradually becoming aware of the potential danger these actors, through their formal groups, are posing to international peace and security. It is an irony that for long these groups were ignored and their lethal and destructive activities evoked only lukewarm responses from the world community. The International bodies which are entrusted with the responsibility to uphold and protect the human rights equally, did not bring these groups within the sphere of their monitoring mechanisms. The UN Human Rights Council (earlier Commission) equally excluded the consideration of this phenomenon for some action for long. The argument which was generally advanced was that the state is the genuine and legal entity which holds sovereignty and control over a territory and a population; hence is accountable for its actions-overt and covert. The groups comprising non state actors, even if indulging in violent and illegitimate activities were excluded from international intervention and censure.

The international opinion started realizing the dangers posed by these groups to human security and international peace. The 9/11 was the flash point of this particular realization. The realization at the international level and even the concern shown by Human Rights Council, however, needs further clarification. Their approach suffers from several lacunae. Firstly, their concentration is on West Asia, by and large ignoring South Asia, where the menace is prevailing and growing further. Secondly, it is erroneous to assume that these groups are autonomous and act independently. In case of South Asia, the groups originate and are armed and guided by Pakistan against India. The non state actors which were caught in India provide an illustration to the point. The lone actor who was caught in November 2008 Mumbai attack which killed about 300 tourists gave the testimony of his origin and training. Thirdly, it is emerging as a dangerous precedent that states are using these groups as strategic pawns to settle their scores with the rival states. It equally belies the argument that NSA activities are driven by economic and social interests.

In recent times, non-state actors have emerged as important factor in various conflicts raging around the world, leading to violence, killing of innocent civilians and disruption of the legitimate civil and political authority in these states. The term 'non-state actor' literally means and refers to the actor in the international community that is not a state, or intergovernmental organization, and who directly or indirectly is involved as combatant in internal or international conflicts.

South Asia has a very large number of non-state armed groups, receiving patronage, arms training and sanctuary of a country which uses these groups as 'strategic assets' to pursue its nefarious and hegemonic foreign policy agenda in the neighbouring countries of India and Afghanistan. These terror groups defy national frontiers and indulge in acts of violence posing serious threat to regional and international peace and security. That the terror groups are operating beyond the national boundaries and have developed global networking with support from some states, other terror groups, arms suppliers and drug traffickers, has aggravated the situation. Whereas international and human rights laws have been focusing on the need to protect individuals from human rights violations by government and state actors, it is high time that the international community takes note of the gruesome atrocities and killings by non-state actors like Al Qaeda, Al Shabab, Boko-Haram, ISIS and scores of other terrorist groups in South Asia like Tehrik-e-Taliban, Tehrik-ul-Mujahideen, Lashkar-e-Jhangvi, Harkat-ul-Ansar (presently known as Harkat-ul-Mujahideen), Jamiat-ul-Mujahideen , Hizb-ul-Mujahideen, Al Umar Mujahideen, Al Badr, Harkat-ul-Jihad-ul Islami, Lashkar-e-Toiba, Indian Mujahideen etc. These groups represent the deadly army of radical and militarized Islamists, some of which have even escaped proscription by the international community by operating under different names and terminology. These groups alongwith the Taliban have been unleashing terror in South Asia, killing and maiming tens of thousands of innocent civilians and threatening peace and security in the region. Even while the so called peace talks between Afghanistan government and the Taliban are underway, the recent spate in suicide and car bomb attacks in Kabul and elsewhere in Afghanistan have led to the death of over a hundred innocent civilians and police men besides injuring hundreds more. These non-state actors and terrorist groups like ISIS have assumed such military power that they have captured several areas in Iraq, Syria and massacred indigenous minorities of Shias, Yazdis, Christians forcing them out of their habitat. Earlier in 1990, the terrorist groups killed, terrorized and forced out about half a million indigenous minority of Kashmiri Pandits from their ancient habitat in Kashmir. This minority has been languishing in exile in various parts of

India for over 25 years now, with their properties-business establishments and other assets back home having been usurped and occupied. According to the data made available by South Asia Terrorism Portal (www.satp.org), during the past 25 years of terrorism in the Valley over 14,700 civilians including non-Muslim minorities, liberal and secular Muslim intellectuals, media persons, political activists and lately the Sarpanches duly elected by the people at the grassroots level, besides 6,170 security personnel have been targeted and killed by these terror groups in order to disrupt the legitimate civil and political authority and also to radicalize the traditional liberal and composite socio-cultural ethos of Jammu and Kashmir. The concept of Islamic Caliphate which is being projected by ISIS as its goal, was floated earlier in Kashmir in 1990 by the Islamist terrorist groups like Hizb-ul- Mujahideen, Al Badr, etc. They openly declared the goal of their separatist and militant movement as the establishment of Islamic Caliphate encompassing Pakistan, Kashmir, Afghanistan, Central Asian Republics and Xinjiang region of China.

It needs to be realized that role of the non-state actors is not confined merely to a relationship between it and a State from where it operates. It has moved beyond national boundaries and is posing grave threat to international peace and security, freedom of religion and belief of citizens, inter-religions harmony and stability of the State itself. So it is high time that the existing gaps in international law are plugged and any anomalies and loopholes are removed in order to provide a stringent legal framework to deal with the conflict situations created by non-state actors. The international community also needs to go deeper into the genesis and ideological basis of such terror movements motivated by religious frenzy. How come highly educated and technical professionals and other young Muslims from across the globe fall prey to the religious frenzy and brainwashing and join such terror groups. For instance one young Kashmiri Muslim boy hailing from an affluent and well settled business family in Kashmir and who was pursuing his MBA degree in Australia got trapped by ISIS propaganda. Last information about him was traced to Mosul in Iraq. Similarly, about a dozen well educated Indian Muslim boys from India are believed to have joined the ISIS operations in Iraq. Their families and old parents are wailing about the fate of their dear sons who did not inform them about their ISIS mission.

The international community cannot take refuge in the plea that the non state actors do not have a certain structure which can be dealt with to resolve the situation. Such non-state actors as armed groups, pirates and terrorists pose serious threat not only to the territory from which they operate but also to other states. So these non-state actors need to be viewed as threat not only to the concerned 'victim state' but to international peace and security. Another problem arises when the non-state actor operates from 'another' country against the 'victim state'. This should be construed as a threat originating from an official action of 'another' state and should be dealt with through adequate counter measures including use of force."